

Customs and Excise (Arrival Information) Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill amends the Customs and Excise Act 2018 (the **principal Act**) to provide for clearer arrival information obligations to help with customs-related border management matters, such as collection of revenue and detection of restricted or prohibited goods. The Bill also aims to improve the collection of arrival information by introducing new offences to enforce the system.

The changes in the Bill support the digitising of the paper arrival card. While a digital arrival card can be implemented using existing legislation, changes are desirable to improve the enforcement and functionality of the system.

In particular, this Bill provides for the following:

- an explicit obligation on arriving passengers to provide prescribed arrival information:
- 2 new offences—one for failing to provide prescribed arrival information and one for providing arrival information that is erroneous in a material particular:
- a power to make regulations—
 - to set the time by which arrival information must be provided to the New Zealand Customs Service (**Customs**):
 - to exempt persons from the requirement to complete arrival information:
- a power for Customs to collect certain information about persons arriving in New Zealand to verify compliance with traveller requirements set out in legislation administered by other agencies.

New regulation-making powers

Regulations may require arrival information to be provided before a person enters New Zealand from a point outside New Zealand. This may be needed to improve future border risk management.

Regulations may exempt people from the requirement to provide arrival information. This may be needed where it is not practical or necessary to collect arrival information from a particular class of persons, for example, persons rescued at sea.

Verification of traveller requirements

The Bill also enables Customs to collect information to verify people's compliance with traveller requirements under legislation administered by other agencies.

In order for Customs to verify compliance on behalf of other agencies, it needs the authority to do so and the ability to use information held by the agency to complete the verification. That authority would need to be provided by other legislation.

Departmental disclosure statement

The New Zealand Customs Service is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

<http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2022&no=180>

Regulatory impact statement

The New Zealand Customs Service produced regulatory impact statements on 23 May 2022 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact statements can be found at—

- <https://www.customs.govt.nz/ris>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

This Bill amends the Customs and Excise Act 2018 (the **principal Act**). It comes into force on 21 June 2023.

Part 1

Amendments about requirement to provide information

Clause 4 inserts new sections 28A and 28B.

New section 28A requires people arriving in New Zealand to provide Customs with certain information. The chief executive's rules will specify what information is to be provided and how it is to be provided. Regulations will specify when the information is to be provided and any exemptions from the requirement to provide information.

New section 28B creates 2 new offences that relate to *new section 28A*. The first is an offence for failing to provide Customs with the prescribed information. The second is an offence for providing Customs with information under *new section 28A* that is erroneous in a material particular.

Clause 5 amends section 34. Section 34 makes it an offence for a person to wilfully fail to comply with requirements imposed on them by or under certain sections. Section 34 is amended to ensure that the offence does not apply to the requirement to provide information under *new section 28A*.

Clause 6 amends section 54. Section 54 sets out the defences available for an offence under subpart 1 of Part 3. Section 54 is amended to provide that is a defence under *new section 28B(1)(b)* if the defendant proves that they took all reasonable steps to ensure that the information they provided was not erroneous in a material particular.

The existing defences in section 54(1) are available for an offence under *new section 28B(1)(a)*.

Part 2

Amendment about power to collect information

Clause 7 inserts *new section 53A*. *New section 53A* gives Customs the power to collect information that is designated as arrival information by another Act in order to verify a person's compliance with a requirement in that Act. However, Customs can collect arrival information only if—

- the provision or provisions that designate the information as arrival information are listed in *new section 53A(2)*; and
- the requirement that the person has to comply with is one that must be complied with before or when the person arrives in New Zealand.

Currently, no information is designated by another Act as arrival information.

New section 53A also clarifies that *new section 28A* does not apply to information designated as arrival information by another Act. The Act that designates information as arrival information will specify how and when the information is to be provided to Customs.

Hon Meka Whaitiri

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Contents

	Page
1 Title	2
2 Commencement	2
3 Principal Act	2
Part 1	
Amendments about requirement to provide information	
4 New sections 28A and 28B inserted	2
28A Persons arriving in New Zealand to provide information	2
28B Offences in relation to providing information	2
5 Section 34 amended (Offence in relation to wilful failure to comply with requirements when arriving in, or departing from, New Zealand)	2
6 Section 54 amended (Defences for offences under subpart)	3
Part 2	
Amendment about power to collect information	
7 New section 53A and cross heading inserted	3
<i>Power to collect other arrival information</i>	
53A Power to collect information designated as arrival information	3

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Customs and Excise (Arrival Information) Amendment Act **2022**.
- 2 Commencement** 5
This Act comes into force on **21 June 2023**.
- 3 Principal Act**
This Act amends the Customs and Excise Act 2018.
- Part 1**
- Amendments about requirement to provide information** 10
- 4 New sections 28A and 28B inserted**
After section 28, insert:
- 28A Persons arriving in New Zealand to provide information**

(1) Every person arriving in New Zealand must provide Customs with the information prescribed by the chief executive’s rules. 15

(2) The information must be provided—

(a) in the way prescribed by the chief executive’s rules; and

(b) within the prescribed time.

(3) Regulations may require a person’s information to be provided at any time before they enter New Zealand from a point outside New Zealand. 20

(4) Regulations may prescribe exemptions from **subsection (1)**.

28B Offences in relation to providing information

(1) A person commits an offence if the person—

(a) fails to comply with **section 28A(1) and (2)**; or

(b) provides Customs with information under **section 28A(1)** that is erroneous in a material particular. 25

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding \$1,000.
- 5 Section 34 amended (Offence in relation to wilful failure to comply with requirements when arriving in, or departing from, New Zealand)** 30
In section 34(1), replace “any of sections 28 to 33” with “section 28 or any of sections 29 to 33”.

6 Section 54 amended (Defences for offences under subpart)

After section 54(2), insert:

- (3) It is a defence to a prosecution for an offence under **section 28B(1)(b)** if the defendant proves that the defendant took all reasonable steps to ensure that the information provided was not erroneous in a material particular.

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Part 2

Amendment about power to collect information

7 New section 53A and cross heading inserted

After section 53, insert:

Power to collect other arrival information

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53A Power to collect information designated as arrival information

- (1) Customs may collect information from a person to verify their compliance with a requirement under another Act if—
- (a) the information is designated as arrival information by 1 or more provisions of that Act (the **relevant provisions**); and
 - (b) the relevant provisions are listed in **subsection (2)**; and
 - (c) the person must comply with the requirement before or when they arrive in New Zealand.
- (2) There are no relevant provisions for the purpose of this section as enacted.
- (3) **Section 28A** does not apply to information designated as arrival information for the purposes of this section (*see* the relevant provisions for requirements relating to how and when the information is to be provided).

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